

TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 12 MANUFACTURED HOUSING
PART 11 DISCIPLINE

14.12.11.1 ISSUING AGENCY: The Manufactured Housing Division of the Regulation and Licensing Department.

[14.12.11.1 NMAC - Rp, 14.12.2.1 NMAC, 12-01-10]

14.12.11.2 SCOPE: These rules and regulations apply to all licensed manufacturers, dealers, brokers, salesman, installers, repairman, and contractors, and unlicensed manufacturers, dealers, brokers, salesman, installers, repairman, and contractors required by the Manufactured Housing Act to be licensed by the manufactured housing division.

[14.12.11.2 NMAC - Rp, 14.12.2.2 NMAC, 12-01-10]

14.12.11.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Manufactured Housing Act, Sections 60-14-1 through 60-14-20 NMSA 1978.

[14.12.11.3 NMAC - Rp, 14.12.2.3 NMAC, 12-01-10]

14.12.11.4 DURATION: Permanent.

[14.12.11.4 NMAC - Rp, 14.12.2.4 NMAC, 12-01-10]

14.12.11.5 EFFECTIVE DATE: 12-01-10 unless a later date is cited at the end of a section.

[14.12.11.5 NMAC - Rp, 14.12.2.5 NMAC, 12-01-10]

14.12.11.6 OBJECTIVE: The objective of 14.12.11 NMAC is to set forth the disciplinary process for licensees under the Manufactured Housing Act and division rules.

[14.12.11.6 NMAC - Rp, 14.12.2.6 NMAC, 12-01-10]

14.12.11.7 DEFINITIONS: [RESERVED]

[Refer to 14.12.1.7 NMAC]

14.12.11.8 COMPLAINTS AND HEARINGS:

A. A person claiming to be injured by an alleged violation of the Act or these regulations or by reason of any other cause set forth in Section 60-14-6, N.M.S.A. 1978, may file with the division a written complaint which shall state the name and address of the licensee against whom the complaint is made and shall include a concise statement of the alleged violation. If it is determined by the division that the complaint is insufficient or defective, the complainant shall be promptly notified and permitted to amend the complaint.

B. Upon receipt of a written complaint, the division shall investigate by telephone or by personal contacts within thirty (30) days of receipt of the complaint the alleged violation to determine whether cause exists to investigate further. If such cause exists, an on-site inspection will be made within thirty (30) days of such determination. The consumer shall make himself available during reasonable business hours within the prescribed thirty (30) days.

(1) The division shall contact the licensee by mail and request correction of the violations within forty (40) day's of receipt of the complaint. The letter may also request investigation according to Subpart I of the Federal Manufactured Home Construction and Safety Standards, Federal Procedural and Enforcement Regulations, which require investigation of class or re-occurrences of non-conformances to the Federal Standards.

(2) Following this initial forty (40) day period, if it is determined that there is no cause for the complaint, the complaint shall be dismissed. The division shall also place all information in their consumer complaint files for five years after closing of the case. This information shall include (a) the determination; (b) who made the determination; and (c) how the determination was made.

(3) If the committee determines that there is cause for the complaint, the division shall attempt to achieve a satisfactory resolution of the complaint through correspondence or informal conference. All resolutions are pending final approval of the committee.

(4) If the committee determines that the items requested to be corrected by the complainant are the responsibility of the manufacturer, and that these items are required to be corrected under the federal regulations, the manufacturer will be requested to submit a notification and correction plan to the director of the manufactured

housing division within twenty (20) days of receipt of the letter and as required under Subpart I of the federal regulations. If, within twenty (20) days and there does not seem to be a reoccurrence of the same deficiencies, no formal plan needs to be submitted if the division has granted waiver to the plan. If a plan is submitted to the division, the division shall approve or modify the plan and send it back to the manufacturer for remedial action. The plan shall include, but not be limited to, a list of manufactured homes affected, method of correction, content of notification notice to consumer and the requirements as detailed under Subpart I of the federal regulations. The manufacturer shall have sixty (60) days to notify and correct and an additional thirty (30) days to submit closeout reports of all action taken by the manufacturer in the case.

C. If the complaint is not completely resolved by the foregoing method, the committee may proceed with formal disciplinary action in accordance with the Uniform Licensing Act, Sections 61-1-1, et seq., N.M.S.A. 1978, as amended, and the division may conduct further inspections or investigations.

D. The division will charge a re-inspection fee each time a re-inspection is performed on a home that is involved in a consumer complaint. Those consumer complaints that the division investigates that are dismissed by the committee, no fee will be charged. The fee shall be charged to the dealer, manufacturer, installer/repairman, or broker as appropriate.

[14.12.11.8 NMAC - Rp, 14.12.2.42 NMAC, 12-01-10]

14.12.11.9 SUSPENSION AND REVOCATION:

A. Hearings on suspensions or revocations of licenses on grounds enumerated in the Act and these regulations shall be conducted in accordance with the Uniform Licensing Act. (Section 61-1-1 et seq., NMSA 1978, as amended.).

B. Following a committee action to suspend or revoke a licensee's license, all homes must be tagged with a "Prohibited Sales Notice." The inspection fee for the removal of a "Prohibited Sales Notice" by the division shall be sixty dollars (\$60.00), except when waived by the director of the division.

C. Any person that has had their license suspended or revoked or bond attached that acted as the qualifying party cannot be re-licensed until all outstanding complaints are final and closed. They must also post a consumer protection bond with the division in the amount of \$100,000.00. They cannot be an employee of any licensee of the manufactured housing division until all complaints are final and closed.

[14.12.11.9 NMAC - Rp, 14.12.2.43 NMAC, 12-01-10]

14.12.11.10 UNLICENSED ACTIVITY: When a person or business entity conducts business in any area requiring licensure, he/she must cease all activities until he/she is licensed and complies with all provisions of the act and these regulations. Failure to cease all activity by a person or business entity will subject such person or business entity to all penalties pursuant to the act and these regulations.

[14.12.11.10 NMAC - Rp, 14.12.2.64 NMAC, 12-01-10]

14.12.11.11 LICENSES VOIDED OR CANCELED BY OPERATION OF LAW:

A. When a license has been suspended, canceled, has not been renewed during the 30 day grace period, or is otherwise voided by operation of law, the licensee cannot work until he/she receives a new license, or until his/her license is properly reinstated as active, pursuant to the requirements of the act and these regulations.

B. Any licensee working while his/her license has been suspended, canceled, has not been renewed during the 30 day grace period, or otherwise voided by operation of law shall be guilty of unlicensed activity. Such, a licensee must resolve any and all unlicensed activity charges pursuant to the requirements of the act and these regulations before obtaining a new license, or renewing, or otherwise reactivating his/her license or certificate of competence.

[14.12.11.11 NMAC - Rp, 14.12.2.65 NMAC, 12-01-10]

HISTORY of 14.12.11 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

CIC 70-5, 1969 Standards for Mobile Homes, filed 09-02-70

CIC MB 70-9, Standard for Mobile Homes for New Mexico, filed 10-23-70

CIC 71-5, 1971 Mechanical Mobile Home Code for New Mexico, filed 09-16-71

CIC 72-3, 1972 Standards for Mobile Homes, filed 08-18-72

CIC 73-1, 1973 Standards for Mobile Homes, filed 10-30-73

CIC MHB 75-4, 1975 Standard for Mobile Home Regulations pertaining to Manufacturers, Dealers, and Installers, filed 10-08-75

CIC MHB 77-7, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers, and Repairmen, filed 04-02-77

MHD 77-1, Regulations pertaining to Manufacturers, Dealers, Brokers, Salesmen, Installers and Repairmen, filed 04-26-77

MHD 81-1, Mobile Housing Division Regulations, filed 05-27-81

MHD 83-1, Manufactured Housing Division Regulations, filed 08-18-83

MHD 85-1, Manufactured Housing Division Regulations, filed 02-01-85

MHD 88-1, Manufactured Housing Division Regulations, filed 08-09-88

MHD 90-1, Manufactured Housing Division Regulations, filed 12-08-89

History of Repealed Material:

14 NMAC 12.2, Manufactured Housing Requirements (filed 9-16-97) repealed 12-01-1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) repealed 6-01-1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4-14-99) repealed 9-14-2000.

14.12.2 NMAC, Manufactured Housing Requirements (filed 8-01-00) repealed 12-01-2010.

Other History:

MHD 90-1, Manufactured Housing Division Regulations (filed 12-08-89) was renumbered, reformatted, amended and replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 12-01-1998.

14 NMAC 12.2, Manufactured Housing Requirements (filed 10-14-98) was replaced by 14 NMAC 12.2, Manufactured Housing Requirements, effective 6-01-1999.

14 NMAC 12.2, Manufactured Housing Requirements (filed 4-14-99) was replaced by 14.12.2 NMAC, Manufactured Housing Requirements, effective 9-14-2000.

Those applicable portions of 14.12.2 NMAC, Manufactured Housing Requirements (filed 8-01-00) were replaced by 14.12.11 NMAC, Discipline, effective 12-01-2010.